

**From:** Bill Tonkin  
**To:** Microsoft ATR  
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**Subject:** Microsoft Settlement

Hello,

I am of the opinion that the Proposed Final Judgment ("PFJ") does not go far enough to deter Microsoft from engaging in anticompetitive conduct. My reasons for this follow:

- o The PFJ's overly narrow definitions of "API" and "Microsoft Middleware Product" is likely to result in important Microsoft interfaces remaining secret and, therefore, anticompetitive barriers.
- o The PFJ does not obligate Microsoft to release information about undocumented file formats. Undocumented Microsoft file formats are a significant Applications Barrier to Entry.
- o The PFJ does not obligate Microsoft to list which software patents protect the Windows APIs. The threat of infringement litigation will scare away potential users.
- o In the past, Microsoft intentionally created incompatibilities to discourage the use of non-Microsoft operating systems, e.g. the 1996 Caldera v. Microsoft antitrust lawsuit. The PFJ does nothing to prohibit these kinds of intentional incompatibilities from being used to create Applications Barrier to Entry.

Best Regards,  
Bill Tonkin